

REMARKS

In view of the above amendment, Applicant believes the pending application is in condition for allowance. Claims 1-4 and 6-9 are now present in this application, of which claim 1 is independent. By this amendment, claim 1 has been amended to incorporate the subject matter of dependent claim 5, and claims 5 and 10-13 have been cancelled without prejudice or disclaimer.

Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citation

Each of the two Information Disclosure Statements filed by Applicant to date has been considered by the Examiner, and initialed PTO-SB08 forms have been provided by the Examiner. Therefore, no outstanding issues remain with respect to the consideration of Information Disclosure Statements.

Drawings

Since no objection has been received, Applicant assumes that the drawings are acceptable and that no further action is necessary. Confirmation thereof in the next Office Action is respectfully requested.

Rejections under 35 U.S.C. §103

Claims 1-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ookubo, Lee, Sharood, or Korea'390. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicant respectfully submits that independent claim 1 has been amended to recite a combination of elements in an internet washing machine including "a communication modem connected to a communication network for transmitting/receiving data over the communication network," "a display unit for displaying whether the washing machine is communicable," and "a control unit for determining a network connection state and communication state of the communication modem and displaying through the display unit whether the washing machine is communicable, in accordance with results of the determination." The display unit further includes "a first display part for displaying an operating state and washing information of the washing machine," and "a second display part for displaying a network communication state of the washing machine."

Applicant respectfully submits that this combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Ookubo, Lee, Sharood, or Korea'390.

The Examiner instructs the Applicant to note "Ookubo, (see [0064], Lee (see col. 3, lines 34-36) Sharood (as at col. 11, lines 45-55) and Korea'390 see 'displayed information.' Also, the Examiner alleges with respect to apparatus claims 1-9, the steps, functions or method of operation of the controller is of little patentable weight given that the applied prior art discloses all of the claimed structure, the device is clearly capable of functioning as claimed. The Examiner also asserts that it is the Examiner's position that all that is required of the prior art is that the same be capable of, or having the ability of functioning as claimed, with the prior art not having to explicitly state the claimed steps, function or method of operation. Finally, the Examiner alleges that microcontroller/processors inherently have many possible control scenarios and that same is clearly capable of functioning/operating as claimed with the proper programming. (Emphasis added by Applicant).

Applicant respectfully submits that there are several flaws with the above-assertions.

First, Applicant submits that there is no standard that states that limitations can be given "little patentable weight." As set forth in M.P.E.P. § 2143.03, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." (Citation omitted).

Therefore, the Examiner is not free to give “little patentable weight” to the limitations of the communication modem, the controller, and the display. To the extent that the limitations are functional, Applicants refer to the Examiner’s own citation to M.P.E.P. § 2173.05(g), which states “[a] functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used.” (Emphasis Added).

Second, the Examiner appears to rely on M.P.E.P. § 2114 to say that functional limitations cannot limit an apparatus claim. However, as noted in the case cited for this proposition, the asserted prior art anticipated the claimed apparatus because the limitations at issue were found to be inherent in the prior art reference. In that case, the claims were found to not be patentable because the board found that the feature must necessarily exist in the prior art. In the current Office Action, no such statement or evidence has been provided to support this position that the alleged controllers of the prior art must necessarily teach the claimed features of the controller.

In fact, the Examiner’s assertion that a controller inherently has many possible control scenarios means that it is highly unlikely that all of the cited prior art have the claimed control scenario. It is respectfully submitted that the court in *In re Robertson* held “to establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (Emphasis added).

Third, in rejecting claims 1-9, the Examiner failed to identify any structure in the cited prior art that teaches the claimed “first display part” and the “second display part,” which were positively set forth in dependent claim 5. Applicant submits that none of the cited references teach or suggest the claimed invention set forth in independent claim 1 including the first display part and the second display part.

Moreover, by providing two display parts, a user can obtain two different kinds of information at one time. In particular, the claimed washing machine can display the operating state of the washing machine and the network communication state at the same time. Applicant respectfully submits that none of Ookubo, Lee, Sharood, or Korea'390 discloses this additional feature of the claimed washing machine.

For at least the foregoing reasons, Applicant respectfully submits that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Ookubo, Lee, Sharood, or Korea'390, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With regard to dependent claims 2-4 and 6-9, Applicant submits that claims 2-4 and 6-10 depend, either directly or indirectly, from independent claim 1, which is allowable for the reasons set forth above, and therefore claims 2-4 and 6-9 are allowable based on their dependence from claim 1, as well as for their additionally recited subject matter. Reconsideration and allowance thereof are respectfully requested.

Additional Cited References

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Chad D. Wells, Registration No. 50,875, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

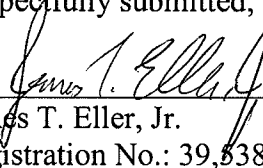
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: July 2, 2009

CDW

Respectfully submitted,

By


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